testimony to overcome the will must be cogent and convincing." A Mississippi case, in 1921, however, takes the opposite view as to the burden of proof, holding that when due execution and mental capacity are proved the proponents make out a prima facie case. When the contestants bring in evidence of undue influence, the burden of proof is upon the proponents to produce a preponderance of evidence. *Isom* v. *Canedy*, (Miss., 1921), 88 So. 485. The testimony in the principal case is sufficient to uphold the will even under the rule of the Mississippi case, for in the majority opinion it is said: "It remains to inquire whether the testator intended the instrument to be his will and testament. The evidence on the question is somewhat meagre, but we think the decided weight of evidence is that he so regarded it." But the dissenting opinion is not satisfied with even the rule of the Mississippi case requiring the proponents to produce a preponderance of evidence: "Mere preponderance of evidence should not be sufficient; the evidence should be such as to clearly, convincingly, and satisfactorily establish the intention." No authority is cited for this proposition and it is submitted that such a rule goes beyond the holding of decided cases.

WITNESSES—CROSS-EXAMINATION—PREVIOUS ARREST AND CONVICTION AS AFFECTING CREDIBILITY.—In a pedestrian's action for injuries against an automobile owner the defendant was asked on cross-examination whether he had ever been arrested and convicted. *Held,* admissible on the issue of his credibility, the court saying that in determining the weight to be given his testimony the jury had a right to know what manner of man he had been. *Van Goosen* v. *Barlum* (Mich., 1921), 183 N. W. 8.

The rule of the common law was that persons convicted of treason, felony, and the *crimen falsi* were rendered infamous, and were disqualified as witnesses. In determining whether the crime was infamous the test seems to be "whether the crime shows such depravity in the perpetration, or such a disposition to pervert public justice in the courts, as creates a violent presumption against his truthfulness under oath." *Smith* v. *State,* 129 Ala. 89. This disqualification has now, of course been removed by statute, but conviction of some crimes is everywhere conceded to be admissible for the purpose of impeachment. However, due to statutes and difference in judicial opinion, the authorities are not in harmony as to what convictions may be shown for this purpose. Some cases hold that the conviction must be for a crime of an infamous character. *Matzenbaugh* v. *People,* 194 Ill. 108; *State* v. *Randolph,* 24 Conn. 363; *Williams* v. *State,* 144 Ala. 14. Sometimes a distinction seems to be drawn as to whether a misdemeanor involves moral turpitude or not. *Wheeler* v. *State,* 4 Ga. App. 325; *Hightower* v. *State* (Tex.), 165 S. W. 184. The tendency, however. is to simplify the rule defining the kinds of crime and make it all crimes or felonies, thus doing away with the subtleties of the common law. WIGMORE ON EVIDENCE, Vol. 2, Sec. 987. The Michigan court seems to define crime as meaning all criminal offenses, whether felonies or misdemeanors. It seems difficult to see how conviction for some misdemeanors would throw light on a witness's credibility, but such a rule is upheld, perhaps, on the theory that if he has been guilty of violation of law he might be more apt

to violate his oath. At all events, the matter rests largely within the discretion of the trial court, and a wide latitude is allowed in Michigan to afford a full inquiry into the history of the witness in order to illustrate his true character. *Wilbur* v. *Flood,* 16 Mich. 41; *Arnold* v. *Nye,* 23 Mich. 286. The doctrine of these early cases has been quite consistently adhered to in this state in the matter of interrogating a witness as to his conviction of crimes.

WORKMEN'S COMPENSATION—ACCIDENTAL INJURY.—A robust city fireman was called out to fight a fire on a bitterly cold day. He worked steadily for six and one-half hours. During that period he fought two stubborn fires with insufficient men. Expert evidence proved that the layer of ice one inch thick which formed at the back of his neck caused a contraction of the muscles, displacing the axis and at las vertebrae, producing pressure on the spinal cord, resulting in paralysis and death. *Held* (two judges dissenting), death was not due to accidental injury. *Savage* v. *City of Pontiac,* Mich., 1921), 183 N. W. 798.

Conceding that courts have not yet found an entirely satisfactory definition of *accident,* in both England and the United States they have quite generally agreed that the word must be interpreted according to its *ordinary and popular* meaning, and they have defined it as *an unlooked-for or untoward event which was not expected or designed.* *Fenton* v. *Thorley,* [1903], A. C. 443; *Brintons* v. *Turvey,* [1905], A. C. 230; *Bryant* v. *Fissell,* (1913), 84 N. J. L. 72; *Boody* v. *K. & C. Mfg. Co.,* (1914), 77 N. H. 208. The English and American cases generally hold that where the exposure is more than ordinary for that sort of employment, or where the other conditions vary from the normal in that employment so as to make it more hazardous, an injury resulting therefrom is an accidental injury. Where a miner died as a result of a chill contracted by reason of being required to stand in cold water up to his knees for twenty-five minutes, death was due to an accident. *Alloa Coal Co.* v. *Drylie,* (1913), W. C. & Ins. Rep. 213. Where, by reason of his boat overturning, a pilot got wet up to the thighs and contracted sciatica, it was held that he was injured by accident. *Barbeary* v. *Chugg,* (1915), 84 L. J. K. B. N. S. 504. Prostration by sunstroke may be found to be an accident. *Morgan* v. *The Zenaida,* (1919), 25 Times L. R. 446. Death resulting from a heat-stroke has been held to be an accident, even though the work of a trimmer on a steamship would naturally expose the workman to intense heat. *Ismay* v. *Williamson,* [1908], A. C. 437. A workman employed to cut grass along a railroad right-of-way suffered an accidental injury when he died from poison ivy infection. *Plass* v. *Central New England R. Co.,* (1915), 155 N. Y. Supp. 854. Where the employe is injured by a frostbite. the more recent cases would allow recovery for an injury by accident. *Days* v. *S. Trimmer & Sons,* (1916), 162 N. Y. Supp. 603; *Nikkiczuk* v. *McArthur,* (Alberta, 1916), 28 D. L. R. 279.

It must be clear that in some of the cases considered above there was nothing extraordinary about the conditions of employment, and in others the deviation from the normal exposure for that particular employment was